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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/749,837

12/28/2000

Judith C. Espejo

BS00-157

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03/08/2004

EXAMINER

GARY, ERIKA A

SHAW PITTMAN

IP GROUP

1650 TYSONS BOULEVARD

SUITE 1300

MCLEAN, VA 22102

ART UNIT

PAPER NUMBER

2681

DATE MAILED: 03/08/2004

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/749,837

Applicant(s)

ESPEJO ET AL.

Examiner

Erika A. Gary

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed December 22, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Titus et al., US Patent Application Publication No. 2002/0029189 (hereinafter Titus) in view of Link, II et al., US Patent Number 6,526,273 (hereinafter Link).

Regarding claim 1, Titus discloses an interactive voice response system for prepaid wireless services comprising: a peripheral device [fig. 1: ref. 200] in communication with a mobile switching system [fig. 1: ref. 120], the mobile switching system capable of communicating with at least one wireless device [fig. 1: ref. 102], and an IVR application [fig. 2: ref. 254] on the peripheral device comprising a menu driven system adapted to receive information from a customer [paragraphs 0016, 0023, 0074].

What Titus does not specifically disclose is that the menu driven system response to the information received from the customer by reciting a rate plan that is the current rate plan and features of the customer. However, Link teaches this limitation as will be discussed below.

Link teaches automated prepaid wireless replenishment with notification wherein the system plays a message conveying customer account information [col. 3: lines 3-6].

Titus and Link are combinable because they are from the same field of endeavor, that is, interactive voice response systems for prepaid wireless services. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Titus to include Link. The motivation for this combination would have been to provide the user with their current account information. Titus teaches that the subscriber can follow a menu system to replenish their account [paragraph 0074]. It would have been obvious to then confirm this information by reciting their current rate plan and features.

Regarding claims 2-4, Link teaches reciting the customer's account information [col. 3: lines 3-6]. It would have been obvious to one of ordinary skill in the art at the time of the invention to specifically recite the name of the rate plan, features, and monthly access fees.

3. Claims 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Titus and Link in view of Batni et al., US Patent Number 6,490,450 (hereinafter Batni).

Regarding claims 5, 8 and 11, Batni discloses an interactive voice response system for prepaid wireless services wherein the peripheral device is an SCP [ref. 113] that communicates with the mobile switching system or with an Intelligent Peripheral [col. 3: lines 62-63; fig. 5]. Batni further discloses that the SCP can communicate using "any suitable protocol, such as TCP/IP" [col. 9: lines 3-5]. Further regarding claim 11, the Intelligent Peripheral plays voice messages through a voice path to the mobile switching system [fig. 5].

Titus, Link, and Batni are combinable because they are from the same field of endeavor, that is, interactive voice response systems for prepaid wireless services. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Titus and Link to include Batni. The motivation for this combination would have been to specifically point out the SCP as Titus alludes to an SCP in the functionality of prepaid server 200 in figure 2.

Regarding claims 6 and 9, Batni discloses that the SCP communicates with an Intelligent Peripheral using TCP/IP [col. 9: lines 3-5].

Regarding claims 7 and 10, Batni discloses that the SCP can communicate with an Intelligent Peripheral using any suitable protocol [col. 9: lines 3-5]. Therefore, IN TCAP messaging would perform just as well in the system.

Response to Arguments

4. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brunner et al., US Patent Number 6,185,414, disclose a wireless telecommunication system with prepaid architecture.

Art Unit: 2681

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika A. Gary whose telephone number is 703-308-0123. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh N. Tran can be reached on 703-305-4040. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750 or to the 2600 Customer Service Office at 703-306-0377.


Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9306 (for informal or draft communications, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive Arlington, VA., Sixth Floor (Receptionist).


Erika Gary
Primary Examiner

**ERIKA GARY
PATENT EXAMINER**

EAG
March 3, 2004